

PATENT COOPERATION TREATY

From the:
INTERNATIONAL SEARCHING AUTHORITY

To:

Freehills Patent & Trade Mark Attorneys
MLC Centre
Martin Place
SYDNEY NSW 2000

PCT

WRITTEN OPINION OF THE INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

		Date of mailing (day/month/year)	14 MAR 2005
Applicant's or agent's file reference S80810383		FOR FURTHER ACTION See paragraph 2 below	
International application No. PCT/AU2005/000101	International filing date (day/month/year) 28 January 2005	Priority date (day/month/year) 29 January 2004	
International Patent Classification (IPC) or both national classification and IPC at. Cl. ⁷ G02C 7/04			
Applicant THE INSTITUTE FOR EYE RESEARCH et al			

1. This opinion contains indications relating to the following items:

<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion
<input type="checkbox"/>	Box No. II	Priority
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
<input type="checkbox"/>	Box No. IV	Lack of unity of invention
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
<input type="checkbox"/>	Box No. VI	Certain documents cited
<input type="checkbox"/>	Box No. VII	Certain defects in the international application
<input type="checkbox"/>	Box No. VIII	Certain observations on the international application

2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the IPEA/AU
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Box No. I Basis of the opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
 This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material
 a sequence listing
 table(s) related to the sequence listing
 - b. format of material
 in written format
 in computer readable form
 - c. time of filing/furnishing
 contained in the international application as filed.
 filed together with the international application in computer readable form.
 furnished subsequently to this Authority for the purposes of search.
3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
4. Additional comments:

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Box No. V : Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims 5-18	YES
	Claims 1-4	NO
Inventive step (IS)	Claims 5,6,8,10-14,16-18	YES
	Claims 1-4,7,9,15	NO
Industrial applicability (IA)	Claims 1-18	YES
	Claims	NO

2. Citations and explanations:

Novelty

US 2003/0016331 and WO 2004/072710 both disclose a multifocal lens which is stable on the eye and moves only with forces exerted by eyelids and ballasts or prisms or bevels. Since claim 1 is not specific to anything other than being stable in either position and does not define how this stability is achieved, claims 1-4 cannot be considered to be novel or to have an inventive step in light of either citation.

US 4 728 182 discloses two separate concave lens which partially overlap, the lens of either near or far prescription, and horizontal movement is induced by the eyelid causing the centring of either lens either onto or off the cornea. Therefore claims 1-4 cannot be said to be novel or to have an inventive step.

Inventive step

Furthermore, the features added by appended claims 7 and 9 relate only to common general knowledge or are inherent in devices of this type and therefore cannot be considered as contributing to patentable ingenuity.

US 2003/0016331 discloses the designing of the back surface of a lens to be the shape of the cornea and its movements. See para [0054]. WO 2004/072710 discloses the use of designer packages using high order mathematics at page 14. In combination, the method of claim 15 in designing a contact lens to a particular eye would not appear to involve an inventive step.

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Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

1. Claims 1 and 15 do not fully define the invention described. Claim 1 is not specific to anything other than being stable in either vision portion and does not define how this stability is achieved. Claim 15 does not define either the stability or how it is achieved. Lack of unity could be an issue here but I believe insufficiency of definition is the problem rather than the existence of another invention.

It would appear from the specification as a whole that that the soft lens should be defined as having concavities in their rear surfaces, designed for each vision requirement and to fit the cornea which gives each vision portion the stability to stay in place until force is applied. These concavities overlap vertically and their overlapping area are blended to ease blurring. The front surface of the lens is uniform without shaping or prisms.

2. The description and claims 1 and 15 are not clear as to the size of the lens over the surface of the eye to enable the eyelids to cause of change of viewing portion.
3. Claims 17 and 18 are omnibus claims.